

Union Calendar No. 211

103D CONGRESS
1ST SESSION

H. R. 3345

[Report No. 103-386]

A BILL

To amend title 5, United States Code, to eliminate certain restrictions on employee training; to provide temporary authority to agencies relating to voluntary separation incentive payments; and for other purposes.

NOVEMBER 19, 1993

Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 1993

Mr. CLAY (for himself, Mrs. SCHROEDER, Mr. McCLOSKEY, Mr. ACKERMAN, Mr. SAWYER, Mr. KANJORSKI, Ms. NORTON, Miss COLLINS of Michigan, Ms. BYRNE, Mr. WATT, Mr. WYNN, Mr. LAUGHLIN, Mr. BISHOP, Mr. BROWN of Ohio, Mr. HASTINGS, Mr. YOUNG of Alaska, Mrs. MORELLA, and Mr. BOEHLERT) introduced the following bill; which was referred to the Committee on Post Office and Civil Service

NOVEMBER 19, 1993

Additional sponsor: Mrs. UNSOELD

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A BILL

To amend title 5, United States Code, to eliminate certain restrictions on employee training; to provide temporary authority to agencies relating to voluntary separation incentive payments; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Workforce
5 Restructuring Act of 1993”.

6 **SEC. 2. TRAINING.**

7 (a) IN GENERAL.—Chapter 41 of title 5, United
8 States Code, is amended—

9 (1) in section 4101(4) by striking “fields” and
10 all that follows through the semicolon and inserting
11 “fields which will improve individual and organiza-
12 tional performance and assist in achieving the
13 agency’s mission and performance goals;”;

14 (2) in section 4103—

15 (A) in subsection (a)—

16 (i) by striking “In” and all that fol-
17 lows through “maintain” and inserting “In
18 order to assist in achieving an agency’s
19 mission and performance goals by improv-
20 ing employee and organizational perform-
21 ance, the head of each agency, in conform-
22 ity with this chapter, shall establish, oper-
23 ate, maintain, and evaluate”;

24 (ii) by striking “and” at the end of
25 paragraph (2);

1 (iii) by redesignating paragraph (3) as
2 paragraph (4); and

3 (iv) by inserting after paragraph (2)
4 the following:

5 “(3) provide that information concerning the
6 selection and assignment of employees for training
7 and the applicable training limitations and restric-
8 tions be made available to employees of the agency;
9 and”; and

10 (B) in subsection (b)—

11 (i) in paragraph (1) by striking “de-
12 termines” and all that follows through the
13 period and inserting “determines that such
14 training would be in the interests of the
15 Government.”; and

16 (ii) by striking paragraph (2) and re-
17 designating paragraph (3) as paragraph
18 (2);

19 (3) in section 4105—

20 (A) in subsection (a) by striking “(a)”;
21 and

22 (B) by striking subsections (b) and (c);

23 (4) by repealing section 4106;

24 (5) in section 4107—

1 (A) by amending the catchline to read as
2 follows:

3 **“§ 4107. Restriction on degree training”;**

4 (B) by striking subsections (a) and (b) and
5 redesignating subsections (c) and (d) as sub-
6 sections (a) and (b), respectively;

7 (C) by amending subsection (a) (as so re-
8 designated)—

9 (i) by striking “subsection (d)” and
10 inserting “subsection (b)”;

11 (ii) by striking “by, in, or through a
12 non-Government facility”; and

13 (D) by amending paragraph (1) of sub-
14 section (b) (as so redesignated) by striking
15 “subsection (c)” and inserting “subsection (a)”;

16 (6) in section 4108(a) by striking “by, in, or
17 through a non-Government facility under this chap-
18 ter” and inserting “for more than a minimum period
19 prescribed by the head of the agency”;

20 (7) in section 4113(b)—

21 (A) in the first sentence by striking “annu-
22 ally to the Office,” and inserting “to the Office,
23 at least once every 3 years, and”;

1 (B) by striking the matter following the
2 first sentence and inserting the following: “The
3 report shall set forth—

4 “(1) information needed to determine that
5 training is being provided in a manner which is in
6 compliance with applicable laws intended to protect
7 or promote equal employment opportunity; and

8 “(2) information concerning the expenditures of
9 the agency in connection with training and such
10 other information as the Office considers appro-
11 priate.”;

12 (8) by repealing section 4114; and

13 (9) in section 4118—

14 (A) in subsection (a)(7) by striking “by,
15 in, and through non-Government facilities”;

16 (B) by striking subsection (b); and

17 (C) by redesignating subsections (c) and

18 (d) as subsections (b) and (c), respectively.

19 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

20 Title 5, United States Code, is amended—

21 (1) in section 3381(e) by striking “4105(a),”
22 and inserting “4105,”; and

23 (2) in the analysis for chapter 41—

24 (A) by repealing the items relating to sec-
25 tions 4106 and 4114; and

1 (B) by amending the item relating to sec-
2 tion 4107 to read as follows:

“4107. Restriction on degree training.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall become effective on the date of enact-
5 ment of this Act.

6 **SEC. 3. VOLUNTARY SEPARATION INCENTIVES.**

7 (a) DEFINITIONS.—For the purpose of this section—

8 (1) the term “agency” means an Executive
9 agency (as defined by section 105 of title 5, United
10 States Code), but does not include the Department
11 of Defense, the Central Intelligence Agency, or the
12 General Accounting Office; and

13 (2) the term “employee” means an employee
14 (as defined by section 2105 of title 5, United States
15 Code) who is employed by an agency, is serving
16 under an appointment without time limitation, and
17 has been currently employed for a continuous period
18 of at least 12 months; such term includes an individ-
19 ual employed by a county committee established
20 under section 8(b) of the Soil Conservation and Do-
21 mestic Allotment Act (16 U.S.C. 590h(b)), but does
22 not include—

23 (A) a reemployed annuitant under sub-
24 chapter III of chapter 83 or chapter 84 of title

1 5, United States Code, or another retirement
2 system for employees of the Government; or

3 (B) an employee having a disability on the
4 basis of which such employee is or would be eli-
5 gible for disability retirement under the applica-
6 ble retirement system referred to in subpara-
7 graph (A).

8 (b) AUTHORITY.—

9 (1) IN GENERAL.—In order to avoid or mini-
10 mize the need for involuntary separations due to a
11 reduction in force, reorganization, transfer of func-
12 tion, or other similar action, and subject to para-
13 graphs (2) and (3), the head of an agency may pay,
14 or authorize the payment of, voluntary separation
15 incentive payments to agency employees—

16 (A) in any component of the agency;

17 (B) in any occupation;

18 (C) in any geographic location; or

19 (D) on the basis of any combination of fac-
20 tors under subparagraphs (A) through (C).

21 (2) REQUIREMENTS APPLICABLE TO EMPLOY-
22 EES.—

23 (A) IN GENERAL.—In order to receive an
24 incentive payment, an employee must agree,
25 during the applicable period under subpara-

graph (B), to separate from service with the agency (whether by retirement or resignation) before such period ends.

(B) DESIGNATION OF PERIOD.—The applicable period, for purposes of any agency component, occupation, geographic location, or combination thereof—

(i) shall be a continuous 90-day period;

(ii) shall be designated by the head of the agency involved; and

(iii) shall end not later than December 31, 1994.

(C) EXCEPTION.—An employee who does not separate from service before the end of the applicable period under subparagraph (B) shall be ineligible for an incentive payment under this section unless—

(i) the agency head determines that, in order to ensure the performance of the agency's mission, it is necessary to delay such employee's separation; and

(ii) the employee completes any additional period of service agreed to (ending not later than 2 years after the last day of

1 the period otherwise applicable under sub-
2 paragraph (B)).

3 (3) REQUIREMENTS APPLICABLE TO AGEN-
4 CIES.—Before offering any voluntary separation in-
5 centive payments to employees within any agency
6 component, occupation, geographic location, or com-
7 bination thereof, the head of the agency involved
8 shall make available to all employees of such agency,
9 and to the exclusive representative of any such em-
10 ployees, a written plan which—

11 (A) shall specify which agency components,
12 occupations, geographic locations, or combina-
13 tions thereof have been identified for incentives,
14 and the percentage of employees within each
15 who are supervisors or managers;

16 (B) shall indicate the beginning and end-
17 ing dates of any periods under paragraph
18 (2)(B), and the agency components, occupa-
19 tions, geographic locations, or combinations
20 thereof to which they apply;

21 (C) shall state whether any additional per-
22 sonnel reductions are anticipated after any ex-
23 ercise of authority under this section and, if so,
24 what types of retraining, placement, or other

1 similar measures will be provided in order to
2 avoid involuntary separations; and

3 (D) shall include any other information
4 which may be necessary in order to permit em-
5 ployees who are eligible for voluntary separation
6 incentive payments to make an informed deci-
7 sion.

8 (c) AMOUNT AND TREATMENT OF PAYMENTS.—A
9 voluntary separation incentive payment—

10 (1) shall be paid in a lump sum after the em-
11 ployee's separation;

12 (2) shall be equal to the lesser of—

13 (A) an amount equal to the amount the
14 employee would be entitled to receive under sec-
15 tion 5595(c) of title 5, United States Code, if
16 the employee were entitled to payment under
17 such section; or

18 (B) \$25,000;

19 (3) shall not be a basis for payment, and shall
20 not be included in the computation, of any other
21 type of Government benefit;

22 (4) shall not be taken into account in determin-
23 ing the amount of any severance pay to which an
24 employee may be entitled under section 5595 of title

1 5, United States Code, based on any other separa-
2 tion; and

3 (5) shall be paid from appropriations or funds
4 available for the payment of the basic pay of the
5 employee.

6 (d) EFFECT OF SUBSEQUENT EMPLOYMENT WITH
7 THE GOVERNMENT.—

8 (1) IN GENERAL.—An employee who has re-
9 ceived a voluntary separation incentive payment
10 under this section and accepts employment with the
11 Government of the United States within 2 years
12 after the date of the separation on which the pay-
13 ment is based shall be required to repay the entire
14 amount of the incentive payment to the agency that
15 paid the incentive payment.

16 (2) WAIVER AUTHORITY.—

17 (A) EXECUTIVE AGENCY.—If the employ-
18 ment is with an Executive agency (as defined in
19 section 105 of title 5, United States Code), the
20 Director of the Office of Personnel Management
21 may, at the request of the head of the agency,
22 waive the repayment if the employment is in a
23 position for which there is exceptional difficulty
24 in recruiting a qualified employee.

1 (B) LEGISLATIVE BRANCH.—If the em-
2 ployment is with an entity in the legislative
3 branch, the head of the entity or the appointing
4 official may waive the repayment if the employ-
5 ment is in a position for which there is excep-
6 tional difficulty in recruiting a qualified em-
7 ployee.

8 (C) JUDICIAL BRANCH.—If the employ-
9 ment is with the judicial branch, the Director of
10 the Administrative Office of the United States
11 Courts may waive the repayment if the employ-
12 ment is in a position for which there is excep-
13 tional difficulty in recruiting a qualified em-
14 ployee.

15 (e) REGULATIONS.—The Director of the Office of
16 Personnel Management may prescribe any regulations
17 necessary for the administration of subsections (a)
18 through (d).

19 (f) EMPLOYEES OF THE JUDICIAL BRANCH.—The
20 Director of the Administrative Office of the United States
21 Courts may, by regulation, establish a program consistent
22 with the program established by subsections (a) through
23 (d) for individuals serving in the judicial branch.

1 **SEC. 4. COORDINATION WITH OTHER PROVISIONS OF LAW.**

2 (a) DEFENSE AGENCIES.—Section 5597 of title 5,
3 United States Code, is amended by adding at the end the
4 following:

5 “(g)(1) An employee who receives separation pay
6 under this section on the basis of a separation occurring
7 on or after the date of enactment of the Federal
8 Workforce Restructuring Act of 1993, and accepts em-
9 ployment with the Government of the United States within
10 2 years after the date of the separation on which payment
11 of the separation pay is based shall be required to repay
12 the entire amount of the separation pay to the defense
13 agency that paid the separation pay.

14 “(2)(A) If the employment is with an Executive agen-
15 cy, the Director of the Office of Personnel Management
16 may, at the request of the head of the agency, waive the
17 repayment if the employment is in a position for which
18 there is exceptional difficulty in recruiting a qualified em-
19 ployee.

20 “(B) If the employment is with an entity in the legis-
21 lative branch, the head of the entity or the appointing offi-
22 cial may waive the repayment if the employment is in a
23 position for which there is exceptional difficulty in recruit-
24 ing a qualified employee.

25 “(C) If the employment is with the judicial branch,
26 the Director of the Administrative Office of the United

1 States Courts may waive the repayment if the employment
2 is in a position for which there is exceptional difficulty
3 in recruiting a qualified employee.”.

4 (b) CENTRAL INTELLIGENCE AGENCY.—Section 2(b)
5 of the Central Intelligence Agency Voluntary Separation
6 Pay Act (Public Law 103–36; 107 Stat. 104) is amended
7 by adding at the end the following: “An employee who re-
8 ceives separation pay under this section on the basis of
9 a separation occurring on or after the date of enactment
10 of the Federal Workforce Restructuring Act of 1993 and
11 accepts employment with the Government of the United
12 States within 2 years after the date of the separation on
13 which payment of the separation pay is based shall be re-
14 quired to repay the entire amount of the separation pay
15 to the Central Intelligence Agency. If the employment is
16 with an Executive agency (as defined in section 105 of
17 title 5, United States Code), the Director of the Office
18 of Personnel Management may, at the request of the head
19 of the agency, waive the repayment if the employment is
20 in a position for which there is exceptional difficulty in
21 recruiting a qualified employee. If the employment is with
22 an entity in the legislative branch, the head of the entity
23 or the appointing official may waive the repayment if the
24 employment is in a position for which there is exceptional
25 difficulty in recruiting a qualified employee. If the employ-

1 ment is with the judicial branch, the Director of the Ad-
2 ministrative Office of the United States Courts may waive
3 the repayment if the employment is in a position for which
4 there is exceptional difficulty in recruiting a qualified em-
5 ployee.”.

6 **SEC. 5. ADDITIONAL AGENCY CONTRIBUTIONS TO THE**
7 **RETIREMENT FUND.**

8 (a) IN GENERAL.—Section 8334 of title 5, United
9 States Code, is amended by adding at the end the follow-
10 ing new subsection:

11 “(m)(1) In addition to any other payments required
12 by this subchapter, an agency shall remit to the Office
13 for deposit in the Treasury of the United States to the
14 credit of the Fund an amount equal to 9 percent of the
15 final basic pay of each employee of the agency who retires
16 under section 8336(d).

17 “(2) For the purpose of this subsection, the term
18 ‘final basic pay’, with respect to an employee, means the
19 total amount of basic pay which would be payable for a
20 year of service by such employee, computed using the em-
21 ployee’s final rate of basic pay, and, if last serving on
22 other than a full-time basis, with appropriate adjustment
23 therefor.”.

1 (b) APPLICABILITY.—The amendment made by this
2 section shall apply with respect to retirements occurring
3 on or after the date of enactment of this Act.